





Land Procedure Disposition Price Resolution

NAME OF LAND PROCEDURE:	Disposition Price Resolution
APPLICATION:	Provides direction on procedure for resolving disputes involving the value of Crown land.
ISSUANCE:	Assistant Deputy Minister, Tenures, Competitiveness and Innovation
IMPLEMENTATION:	Ministry of Forests, Lands and Natural Resource Operations
REFERENCES:	<i>Land Act</i> (Ch. 245, R.S.B.C, 1996) <i>Ministry of Lands, Parks and Housing Act</i> (Ch. 307, R.S.B.C, 1996)
RELATIONSHIP TO PREVIOUS LAND PROCEDURE:	This procedure replaces the previous Disposition Price Resolution procedure dated August 16, 2004



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Date:

EFFECTIVE DATE: June 1, 2011
AMENDMENT:

FILE: 11120-00

APPROVED AMENDMENTS:		
Effective Date	Briefing Note /Approval	Summary of Changes:
June 1, 2011	BN 175892	Policy and Procedure update to reflect reorganization of resource ministries April 2011

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1. PURPOSE

This procedure establishes a process for property disposition price resolution where arbitration and other valuation settlement procedures are not specifically spelled out in a document. Application of this procedure is limited to dispositions where policy provides an opportunity for challenging the Authorizing Agency's valuation, i.e., does not apply where the Authorizing Agency uses BC Assessment values. The procedure is intended for resolving disputes with individual clients and is not intended for properties listed for sale on MLS, offered by competitive process or for a fixed, pre-determined price. This procedure should also be used where there is a rental dispute involving land values which result in an outside appraisal being commissioned.

This procedural statement complies with the provisions of the *Ministry of Lands, Parks and Housing Act* and the *Land Act*.

2. DEFINITIONS

Accredited Appraiser Canadian Institute (AACI) means a fully accredited member of the Appraisal Institute of Canada.

Appraisal means an opinion of market value, or value as defined by the appraiser, of an adequately described property as of a specific date, supported by the presentation and analysis of relevant data.

Authorizing Agency means the Provincial ministry responsible for the specific land use authorization.

Canadian Residential Appraiser (CRA) means AACI members qualified in the appraisal and valuation of individual undeveloped residential dwelling sites and dwellings containing no more than four self-contained family housing units.

Fee Appraiser means a person with the necessary training, accreditation, and experience, available as an independent consultant to provide professional support, advice and estimates on the value of real property. The CRA, AACI and RI(BC) with Appraisal Options, are Canadian professional designations recognized by the Authorizing Agency.

Market value is the most probable value which a property should bring in a competitive and open market under all conditions requisite to a fair sale and assuming the price is not affected by undue stimulus.

3. PROCEDURE

This procedure will apply when a client disagrees with the price established by the Authorizing Agency and a resolution has not been reached.

Prior to proceeding to the steps outlined below, Provincial staff should meet with the client to review the Authorizing Agency's market value policy, the appraisal and to explain how the price was derived in an attempt to reach a negotiated settlement.

The Authorizing Agency is not bound to accept an appraisal as market value. If new evidence is considered, a revised market value may be established. The file is to be

well documented, stating the new evidence considered and the method employed to reach the revised value. If the revised value is adjusted by more than 25% from the previous appraised value, the Authorizing Agency's Executive approval is required.

3.1 Properties Valued at Less Than \$100,000

With the client's agreement, the Authorizing Agency will obtain a second appraisal and the value established will be binding on both parties, subject to the following:

- If the new appraisal is within 90% on the low side and 110% on the high side of the Authorizing Agency's offer or appraisal, then the second appraisal will be binding.
- If the new appraisal varies from the Authorizing Agency's offer by more than 10%, the Authorizing Agency has the options of negotiating a price between the Authorizing Agency's offer and the second appraisal, or, obtaining a third binding appraisal at the Authorizing Agency's cost.

The Authorizing Agency will provide draft terms of reference for hiring a fee appraiser and confer with the client in the selection of a suitable appraiser. The appraiser must have the qualifications and experience to carry out the assignment (e.g. if it is an agricultural property under dispute, the accredited appraiser should also have either a university degree in agriculture and/or extensive experience in appraising agricultural properties in British Columbia).

The Authorizing Agency obtains a cost and time quotation from the appraiser selected.

The client will be required to pay for the second appraisal. Prepayment will be made to the Authorizing Agency prior to obtaining the appraisal report.

The Authorizing Agency advises the client and upon receiving payment for the appraisal from the client, orders the appraisal (copy to the client). The appraiser is instructed that when the finished report is mailed to the Authorizing Agency, a copy is to be sent directly to the client.

Upon receipt of the appraisal, the Authorizing Agency will contact the client to arrange for the orderly transfer of the land at the appraised market value providing this value is within 10% of the first the Authorizing Agency's offer; OR contact the client and inform him/her of the Authorizing Agency's position if the appraisal is more than 10% from the first offer.

3.2 Properties Valued at \$100,000 and over

The same procedures apply as above, except the appraisal will not be binding on either party.

Upon receipt, review, and the Authorizing Agency's acceptance of the second appraisal, the Authorizing Agency will make an offer to the client. This offer, at the Authorizing Agency's discretion, may be based on:

- The valuation from the first appraisal;
- The valuation from the second appraisal; and,

- A valuation established by comparing the two reports.

Before presenting the offer, the Authorizing Agency may review client representations, and any additional relevant information.

If the second appraisal is rejected by the Authorizing Agency staff, they may order a third appraisal at the Authorizing Agency's expense and provide a final offer to the client.